

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION**

KENNETH W. LOVETT

PLAINTIFF

VS.

CIVIL ACTION NO. 4:05CV126LR

CBL & ASSOCIATES PROPERTIES, INC.

DEFENDANT

ORDER

This cause is before the Court upon the Defendant's Motion to Strike any Testimony of Plaintiff's Experts for Failure to Timely Designate Experts, the basis of which is the alleged failure by the Plaintiff to properly designate Dr. Irvin L. Martin, his treating physician. The Plaintiff's designation of Dr. Martin, made in response to an Interrogatory, contains only his name, office address, and identification as a treating physician. The Plaintiff argues that this designation is complete because it was accompanied by his medical records, to which the Defendant was referred for Dr. Martin's opinion and the basis therefor.

The Defendant argues that the designation is incomplete because it does not contain a report, in accordance with Fed. R. Civ. P. 26(2)(B). The Plaintiff has responded to this Motion by arguing that the requirements for designating an expert witness are less stringent than for other experts. He is correct in his assertion that full Rule 26 expert reports are not required for treating physicians. However, the Plaintiff has not complied with Uniform Local Rule 26.1(A)(2)(f), which very specifically describes what is required in the designation of a treating physician:

A party shall designate treating physicians as experts pursuant to this rule, but is only required to **provide the facts known and opinions held by the treating physician(s) and a summary of the grounds therefor.**

The above requirement certainly cannot be met by the mere production of medical records; a written

summary of the facts known and the opinions held by the treating physician, and a summary of the supporting grounds, must be given to counsel opposite.

IT IS, THEREFORE, ORDERED that the Defendant's Motion to Strike and/or Preclude any Testimony of Plaintiff's Experts for Failure to Timely Designate Experts is hereby **granted**, but only to the extent that the Plaintiff is ordered and directed to supplement her expert designation as to Dr. Irvin L. Martin by fully complying in writing with the requirements of Unif. Local R. 26.1(A)(2)(f) on or before May 18, 2006. If the Plaintiff does not comply with this direction by May 18, then Dr. Martin may be stricken as an expert witness.

IT IS SO ORDERED, this the 24th day of April, 2006.

S/John M. Roper

UNITED STATES MAGISTRATE JUDGE